

**MINUTES: CITY COUNCIL WORK SESSION MINUTES
June 15, 2009**

PRESENT: Mayor Joe Higgs, Councilman Robert Patton, Councilman Thomas Muir, Councilman Russell Martin, Councilman Glenn Ervin

MEMBERS

ABSENT: Councilman Andy Garza

OTHERS

PRESENT: Mike Brice City Manager, Tami Taber Assistant to the City Manager/HR, Joe Iliff Director of Development Services, David Pennington Fire Chief, Chris Roach, Jerry Jenkins, Steve Koch, Randall Smith

1. **Call Meeting to Order.**

Mayor Higgs called the meeting to order.

2. **Presentation by Steve Koch Regarding Amending the Fire Sprinkler Requirements for Multi-Family Residential.**

Steve Koch addressed the Council on trying to amend the sprinkler requirements for multi-family residential, and finding a way around the predicament that they are in. He indicated he has green tags on all twelve condos on Marion Road for electrical power. The problem is where the units have to be torn down; it has been sheetrocked, painted, and bricked. Chris Roach, his electrician, had talked to our building inspector prior to permitting on how the work was to be done. The building inspector told him he would get back to Chris. Mr. Koch alleged that prior to wiring the units, the building inspector told Chris to wire them the same way he had done the other two buildings. The other two buildings have the meter in one location and the service cable runs up the wall through the attic and drops down to each unit. They received their green tags and continued working. Now, the building inspector tells him that it has to be changed, and each unit has to be individually metered. He is at the point that he needs to continue forward, one way or the other.

Mr. Koch indicated that Denton's sprinkler code is 7,500 square-feet or more on their residential. His units fall under the 6,000 square-foot requirement for a commercial building, and the City does not require those to be sprinklered. The City's building code indicates that anything over a duplex has to be sprinklered. He requests that the City corrects its mistake, to keep from having to demo what has been done. Mr. Koch emphasized that he had brought his twelve green tags that were placed on his units.

The City Manager indicated that it is not the City's mistake that this was not caught when they did the rough-in inspection. It is the contractor's responsibility to do the work according to code.

Mr. Koch was persistent and implied that he asked prior to doing the work on how it was to be done, and the City told him how it was to be done.

Chris Roach indicated that he specifically asked the Building Inspector if he could run the service on one side of the building, the same way he did the other buildings. The inspector told him he would get back with him. About two weeks later he had not heard from him. He then saw him and stopped to talk to him. The Building Inspector told him then he would get back with him. Mr. Roach explained to the inspector that he was getting ready to wire those buildings and he needed to know what he needed to do. Mr. Roach alleged that the Building Inspector told him that he did not see any reason why he could not wire those buildings like he did the other buildings.

Discussion continued regarding the buildings, whether they were townhomes or condominiums. The building code requires separation between each building if they were townhomes. It was mentioned that the original buildings were condominiums.

Mr. Koch indicated they have always been townhomes.

The City Manager indicated the first two buildings were not inspected, because it was prior to the City annexing the property. He was not sure if the County inspected those buildings. He advised there is no point to argue on whether there has been a mistake. It was a mistake, and the blame goes all the way around. The issue is that if the City gives him any kind of a variance, then the City is accepting all liability in case something happens down the road. He does not recommend that the City do this. He advised that the only way to resolve this problem is to amend the sprinkler ordinance. He also indicated that staff does not support this. However, this is the only way the City would not require him to sprinkler those buildings.

Mr. Koch asked that if they have to demo, is the City refusing to pay for their mistake.

The City Manager indicated that is correct.

Mr. Koch indicated it would have not been any more money to have done the units individually. He wished that this had been caught in the beginning. He emphasized he does not feel it is his responsibility when he was told to do it this way and received green tags to approve the work. If he tears down the buildings he is looking at \$20,000 at the low end.

Councilman Martin asked if the problem was from the green tags of the meters or running of the service, and also asked if there was an alternative.

The City Manager indicated the problem is in running the service and the

alternative is to run it down the outside of the back wall.

Discussion continued concerning moving the service, the phone and cable. The discussion also continued concerning the fire wall between each unit.

Councilman Muir asked if the Fire Chief had any issues.

Chief Pennington indicated that Denton does have the requirements at 7,500 square feet, but the difference is Denton has 54 staff fireman on duty each day. The City does not have the same fire protection that Denton has. He does not recommend that we change the requirements. There is not any way they can get firemen on scene to take care of fire. A sprinkler system will be allowing the fire to be contained until they get to the scene to extinguish the fire. He understands this is a monetary issue, but in the matter of life safety he does not recommend the square footage be reduced.

Mr. Koch indicated it would have not been a monetary issue if they had been told from the beginning. Mr. Koch continued to discuss the fact that if they had been “red tag” at the time; he would have taken it out. It is a monetary issue because they are three weeks passed.

Councilman Muir asked if there was a reason as to why the first two were not required to be sprinklered.

The City Manager indicated that they were not required to be sprinklered because they were intended to be townhomes with the fire separation walls that were unpenetrated between each unit. This is what allows them not to be sprinklered. They are considered single-family unit houses on zero lot lines.

Discussion continued. Mr. Koch advised he found out they were not in compliance when Mike Prater from the Electric Department came down to the site. At that time, the front building had been totally bricked, the back building had all been bricked on the back side, cabinets were in, trim and texture had already been done on both buildings. The only thing that had not been done was the painting.

Councilman Patton asked if this is when they found out there was an issue.

Mr. Koch indicated that it was not. The City Manager was out of town during this time. Dewayne (City’s Building Inspector) came down and advised that he thought they could come up with an agreement. The City Manager was out of town, and Dewayne indicated that maybe the lawyers could write something up that would state that the buildings would not be sold individually but sold as one unit. Mr. Koch indicated his intention is not to sell the buildings. When the City Manager came back it was determined there was an issue.

Discussion continued concerning the building code requirements and the standard

construction procedures for having a firewall. The requirement for condominiums requires each unit to be sprinklered, and the townhomes require the fire wall.

The City Manager discussed that the building code is specific concerning the requirement for townhomes.

Mayor Higgs asked if the issue was whether they are townhomes or condominiums. If they are considered condominiums, then he has to put the sprinkler system.

The City Manager indicated this was correct.

Councilman Muir asked if they are considered town homes, then he has to tear things down to correct it.

The City Manager indicated this was correct.

Mayor Higgs discussed if anyone had figured the least expensive alternative for Mr. Koch to take.

Councilman Muir asked if there was anyway that they can make that penetration to where it is “fire worthy”.

The City Manager indicated that in the code it requires it to be masonry. He discussed that there wasn't an alternative to the problem except to sprinkler the units or put in the firewalls.

Mr. Koch indicated that it will be a mess and the cost would be expensive, whether it is condominiums or townhomes.

Jerry Jenkins addressed the Council concerning the sprinkler code and asked if it had changed concerning the square footage requirement.

Discussion continued.

City Manager advised that the sprinkler code has not changed; however, the building code changed when they adopted the 2006 building code. It requires anything over a duplex to be sprinklered regardless of size. The only way around this is to amend the City's adoption of the building code.

Councilman Martin asked how other cities handle issues like this when mistakes get made, and does it basically fall back on the contractor.

The City Manager indicated that it does, and there is case law that supports this.

Councilman Muir also asked how many units were in each building and the square footage of each unit.

Mr. Koch indicated there are six units per building. They are about 900 sq. ft. a unit. There are two buildings; each is less than 6,000 sq. ft.

Mayor Higgs advised that this is not on the agenda and Council could not take action on this matter.

Discussion continued. Mayor asked if the County had inspected the first two buildings he built.

Mr. Koch indicated he had a third-party inspector that inspected the first buildings he built. The County's Fire Marshall reviewed the plans and approved them.

A brief discussion followed. The City Manager indicated this is not the first mistake the inspector will make or will it be the last one. He wished that it had been caught earlier, but it wasn't, and this is the reason that they are where they are at.

Mr. Koch asked if he was going to get some direction on how to proceed.

The City Manager asked Council if there was interest in amending the Sprinkler Ordinance.

Councilman Patton asked the Fire Chief for his opinion on amending the ordinance.

Chief Pennington indicated he did not recommend it because in a life safety circumstance they do not have the staff to get to the scene on time.

Steve Koch indicated if the City gave him a variance, and he signed a document where he would assume all the liability, would this be a possibility.

The City Manager indicated he did not think a variance could be granted, since there is not a hardship. This is a code compliance question. If the City tells him that he does not have to build it to code, the City is assuming all the liability by making the exception. He indicated that the indication he is getting from the Council is to not amend the ordinance. Mr. Koch does not have any option except to comply with the code.

3. Overview of Items on Regular Agenda.

City Manager continued to discuss the items on the regular agenda. He reviewed item #3(c) and advised that this is an ongoing agreement that is executed every year with the Sanger Police Department and Denton County Criminal District Attorney's Office for asset procedures. The revisions are changing to where the City will receive a bigger percentage upon final judgement.

Item #6 – City Manager indicated the contract with Cheryl Estes, CPA, is for her to

assist us with the restructuring of some of the accounting procedures that were suggested by our auditors. He reminded the Council that during the audit our CPA had advised that due to the GASB requirements they can't go in and set up the procedures that need to be in place.

A brief discussion continued concerning the fees and Ms. Estes' knowledge of the City's accounting system.

Item # 7 – City Manager advised that on the Skiles' property, they are working with Dr. Wolski on a development agreement. He asked that if Council approves the plat, it must be contingent upon the fact that the plat will not be filed until they receive the development agreement or the road is completed and dedicated to the City of Sanger.

Item # 8- City Manager advised this is the final plat with Elk Farms consisting of 20 lots.

4. Adjournment.

Mayor Higgs adjourned the meeting.